

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

----- X
DIANE G. SHORT, SAMIRA PARDANANI, :
JUDITH DAVIAU, and JOSEPH BARBOZA, :
Individually and as representatives of a class of :
participants and beneficiaries in and on behalf of :
the BROWN UNIVERSITY DEFERRED :
VESTING RETIREMENT PLAN, and the :
BROWN UNIVERSITY LEGACY RETIREMENT :
PLAN, :
Plaintiffs, : No. 17-cv-318-S-PAS
- against - : DECLARATION OF STEVEN M.
BROWN UNIVERSITY in Providence in the : RICHARD IN SUPPORT OF
State of Rhode Island and Providence Plantations, : MOTION TO DISMISS
Defendant. :
----- X

STEVEN M. RICHARD, under penalty of perjury pursuant to 28 U.S.C. § 1746, deposes and says:

1. I am a partner in the firm of Nixon Peabody LLP, counsel for Defendant Brown University in this action, and am fully familiar with the matters below.
2. Attached as Exhibit 1 to this Declaration is a true copy of a November, 2011 United States Department of Labor publication, Advisory Council on Employee Welfare and Pension Benefit Plans, *Report to the Honorable Hilda L. Solis, United States Secretary of Labor: Current Challenges and Best Practices for ERISA Compliance for 403(b) Plan Sponsors*, available at <https://www.dol.gov/ebsa/publications/2011ACreport1.html> (last visited October 19, 2017).

3. Attached as Exhibit 2 to this Declaration is a true copy of a United States Government Accountability Office report to congressional requesters, GAO Highlights of GAO-16-433, available at <http://www.gao.gov/assets/680/678925.pdf> (last visited Oct. 19, 2017).

4. Attached as Exhibit 3 to this Declaration is a true copy of an Information Letter dated December 22, 2016 from Louis J. Campagna, Chief, Division of Fiduciary Interpretations, Office of Regulations and Interpretations of the United States Department of Labor, to Christopher Spence of TIAA, available at www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/information-letters/12-22-2016 (last visited Oct. 19, 2017).

5. Attached as Exhibit 4 to this Declaration is a true copy of a November 2009 release by Standard Retirement Services, Inc., *Fixing Your 403(b) Plan: Adopting a Best Practices Approach.*

6. Attached as Exhibit 5 to this Declaration is a true copy of an August 22, 2016 article published by BenefitsPro, Nick Thornton, *Is It Time for 403(b) Plans to Evolve?* available at http://www.benefitspro.com/2016/08/22/is-it-time-for-403b-plans-to-evolve?page=2&slreturn=1507764531&page_all=1 (last visited Oct. 19, 2017).

7. Attached as Exhibit 6 is a true copy of the Brown University Deferred Vesting Retirement Plan Summary Plan Description, available at <https://www.brown.edu/about/administration/human-resources/sites/human-resources/files/DeferredVestingPlanSummaryPlanDescription.pdf> (last visited Oct. 19, 2017).

8. Attached as Exhibit 7 is a true copy of United States Department of Labor Form 5500, Annual Report/Return of Employee Benefit Plan (2016) for the Brown University Legacy Retirement Plan, available by search at <https://www.efast.dol.gov/portal/app/disseminate?execution=e1s2#> (last visited Oct. 19, 2017).

9. Attached as Exhibit 8 is a true copy of United States Department of Labor Form 5500, Annual Report/Return of Employee Benefit Plan (2016) for the Brown University Deferred Vesting Retirement Plan, *available by search at* <https://www.efast.dol.gov/portal/app/disseminate?execution=e1s2#> (last visited Oct. 19, 2017).

10. Attached as Exhibit 9 is a true copy of a June 30, 2017 fact sheet by Teachers Insurance Association of America, Inc. (“TIAA”), *TIAA Traditional Annuity: Group Retirement Annuity*, *available at* <https://www.tiaa.org/public/pdf/ffs/878094101-GRA.pdf> (last visited Oct. 19, 2017).

11. Attached as Exhibit 10 is a true copy of a September 13, 2016 Plan and Investment Notice for the Brown University Deferred Vesting Retirement Plan containing information required by ERISA Section 404a-5.

12. Attached as Exhibit 11 is a true copy of a publication of the United States Securities and Exchange Commission, *Fast Answers: Variable Annuities* (as modified May 3, 2012), *available at* www.sec.gov/fast-answers/answersvarannhtm.html (last visited Oct. 19, 2017).

13. Attached as Exhibit 12 is a true copy of a webpage by TIAA, *Awards and Recognition*, *available at* www.tiaa.org/public/about-tiaa/awards-recognition (last visited Oct. 19, 2017).

14. Attached as Exhibit 13 is a true copy of a webpage by TIAA, *Why TIAA*, *available at* <https://www.tiaa.org/public/why-tiaa/why-we-are-different> (last visited Oct. 19, 2017).

15. Attached as Exhibit 14 is a true copy of a December 2011 United States Department of Labor, Employee Benefits Security Administration brochure, *Understanding Retirement Plan Fees and Expenses*.

16. Attached as Exhibit 15 is a true copy of a webpage by TIAA, *Loan FAQs*, available at www.tiaa.org/public/support/faqs/loans (last visited Oct. 19, 2017).

17. Attached as Exhibit 16 is a true copy of a fact sheet from TIAA, *CREF Retirement Annuity Accounts*, CREF Stock Account Class R3, available at <https://www.tiaa.org/public/pdf/ffs/194408126.pdf> (last visited Oct 19, 2017).

18. Attached as Exhibit 17 is a true copy of a Financial Times Quote for CREF Stock Account Class R3, “Summary” and “Ratings” tabs, available at <https://markets.ft.com/data/funds/tearsheet/ratings?s=QCSTIX> (last visited Oct. 19, 2017).

19. Attached as Exhibit 18 is a true copy of a TIAA Real Estate Account prospectus dated May 1, 2017, available at http://www.tiaa.org/public/prospectuses/realestate_prosp.pdf?fundclass=RPVA (last visited Oct. 19, 2017).

20. Attached as Exhibit 19 is a true copy of a Vanguard REIT Index Fund Prospectus dated September 26, 2017, available at <https://personal.vanguard.com/pub/Pdf/i3123.pdf?2210120737> (last visited Oct. 19, 2017).

21. Attached as Exhibit 20 is a true copy of a July 2012 report of AonHewitt, InBrief, *Global Investment Management*, TIAA-CREF Asset Management TIAA and CREF Accounts, available at <http://system.nevada.edu/Nshe/?LinkServID=82B25D1E-9128-6E45-1094320FC2037740> (last visited Oct. 19, 2017).

22. Attached as Exhibit 21 is a true copy of Form 5500, Annual Report/Return of Employee Benefit Plan (2010) for the Brown University Legacy Retirement Plan, available by search at <https://www.efast.dol.gov/portal/app/disseminate?execution=e1s2#> (last visited Oct. 19, 2017).

23. Attached as Exhibit 22 is a true copy of Form 5500, Annual Report/Return of Employee Benefit Plan (2010) for the Brown University Deferred Vesting Retirement Plan, available by search at <https://www.efast.dol.gov/portal/app/disseminate?execution=e1s2#> (last visited Oct. 19, 2017).

24. Attached as Exhibit 23 is a true copy of TIAA, *Take a Loan*, <https://www.tiaa.org/public/advisors/guidance/take-a-loan> (last visited Oct. 19, 2017).

25. Attached as Exhibit 24 is a report of the Federal Reserve Bank of St. Louis, *Economic Research: Moody's Seasoned AAA Corp. Bond Yield*, available at <https://fred.stlouisfed.org/series/AAA> (last visited Oct. 19, 2017).

26. Attached as Exhibit 25 is a true copy of TIAA Group Supplemental Retirement Annuity Certificate for Diane Short, issued February 1, 2017.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 20, 2017

/s/ Steven M. Richard
Steven M. Richard (#4403)
Nixon Peabody LLP

CERTIFICATE OF SERVICE

I certify that, on this 20th day of October, 2017, I caused a copy of my declaration to be filed and served via the Court's CM/ECF system.

/s/ Steven M. Richard